



Monthly Legislative Report – November 2019

FY2020 Budget and Appropriations Update

On November 21st, President Trump signed a continuing resolution (CR) extending current government funding levels through December 20th, avoiding another potential government shutdown. The measure replaced the current CR (PL 116-59), which expired November 21st, with this new December 20th deadline. For transportation, the CR also included a provision that repeals the \$7.6 billion rescission of highway funding that was set to trigger on July 1, 2020, under the 2015 highway authorization law (PL 114-94).

The text of the enacted CR can be found [HERE](#).

Other additional provisions in the CR are as follows:

- A provision allowing the Census Bureau to spend at a \$7.3 billion annualized rate in order to ensure adequate funding for the 2020 decennial count. That includes \$90 million for special mobile questionnaire assistance centers to replace brick-and-mortar locations, an effort that has run into skepticism from some lawmakers as well as the bureau's external advisory board.
- A provision that would expand eligibility for payments from a compensation fund for victims of state-sponsored terrorism set up under the fiscal 2016 omnibus spending law (PL 114-113).
- Provisions extending numerous expiring health care programs that were temporarily renewed in the most recent stopgap law, such as funding for community health centers and teaching hospitals, as well other miscellaneous programs ranging from the higher education reauthorization law to the Export-Import Bank

The second stopgap funding measure was passed as an amendment in the nature of a substitute to a fiscal 2020 spending package (H.R. 3055) that had passed in both the House and as amended in the Senate. The House passed (231-192) the CR on November 19th, sending it to the Senate. On November 21st the Senate passed (74-20) the CR measure (H.R. 3055), sending the bill to President Trump's desk.

Leading up to the Senate's passage, Senate leaders and appropriators contemplated swapping legislative vehicles for the House-passed monthlong stopgap bill (H.R. 3055). Senate appropriators wanted to preserve the underlying bill as a vehicle to carry potential compromise versions of some or all of the 12 spending bills to the President's desk in December. Had they done this the bill would have had to be sent back to the House for passage before going to the President's desk. Senate leaders decided to abandon that strategy on November 20th in order to expedite final consideration and avoid delays.

Looking ahead to December, President Trump's impeachment proceedings may cause some disruption in finalizing the appropriations process. Furthermore, President Trump's border wall funding request, which led to a 35-day partial shutdown at the end of 2018 and early this year, has again been one of the biggest stumbling blocks to finishing work on the bills.

Consequently, some Trump administration officials have endorsed the idea of a year-long continuing resolution that would extend current funding levels through the 2020 election. This idea is not popular with Congressional Appropriators we spoke with this month who are eager to preserve the increased funding levels for domestic programs. Shortly after the CR was enacted, House and Senate Appropriations Committee Chairs Nita Lowey (D-NY) and Richard Shelby (R-AL) announced a bipartisan deal on individual spending allocations for each bill, called 302(b)s. The new numbers for transportation programs (THUD) have still not been made public as of the writing of this report.

November Advocacy Meetings

Congressman Harley Rouda (D-CA) – We followed-up with Congressman Rouda and his staff this month on our discussions regarding streamlining the TIFIA process, and progress on the Surface Transportation Reauthorization. We discussed possible climate provisions in the Highway Bill that may include new transit funding. We asked for ongoing support for OCTA priorities in the drafting process and opportunities to provide input before formal markups begin.

Congressman Lou Correa (D-CA) – We followed-up with Congressman Correa and his staff on our discussions regarding TIFIA, the I-405 project, and we discussed the Surface Transportation Reauthorization and support for legislation to address the aviation fuel tax issue.

Congressman Mike Levin (D-CA) – We followed-up with staff in Congressman Levin's office to discuss beach erosion issues between Capistrano Beach and Dana Point. We also discussed support for alternative delivery methods for federally funded transportation projects and ways to streamline the TIFIA program. We also gave an update on the I-405 project and discussed possible Congressional reactions to the EPA's revocation of California's Clean Air Act waiver, and the need for at least a three-year transition period.

Congresswoman Grace Napolitano (D-CA) – We met with Congresswoman Napolitano and her staff (COS and LD) to follow-up on our discussions regarding the Surface Transportation Reauthorization drafting process and next steps for [H.R. 2939](#) to address the aviation fuel tax issues.

Congressman Gil Cisneros (D-CA) – We have been maintaining close contact with senior staff in Congressman Cisneros' office to discuss progress on additional tax extenders and the possibility of including them in any upcoming appropriations minibus

or omnibus bills. We also discussed the TIFIA program and support for legislation to address the aviation fuel tax issue.

Congressman Pete Aguilar (D-CA) – We met with the Congressman and his staff this month to discuss the appropriations process and any changes the House may consider making to the Senate’s THUD Appropriations bill. We also discussed the likelihood of the year-long CR if the House and Senate are unable to reach consensus on some or all of the individual bills before the end of the calendar year and provisions that were included in the CR.

Congressman Alan Lowenthal (D-CA) – We met with Congressman Lowenthal and his staff to follow-up on our discussions regarding the Surface Transportation Reauthorization and opportunities to address the aviation fuel tax issue in the legislation. We also discussed the alternative fuel tax issue and the possibility for including language in any must-pass bill at the end of the year.

Senator Dianne Feinstein (D-CA) – We followed-up with Senator Dianne Feinstein’s staff numerous times this month to discuss the timeline for FY20 appropriations in the Senate. We followed-up on possible TIFIA reform legislation and discussed the timeline for the Senate’s version of a Surface Transportation Reauthorization in the Finance Committee, Banking Committee, and Commerce Committee. We also talked about other process reforms in the Senate WRDA that may impact transportation.

Ranking Member Sam Graves (R-MO) – We met with Ranking Member Graves’ staff to discuss updates on progress for the Surface Transportation Reauthorization and possible funding mechanisms for the bill. We also discussed the FAA Reauthorization hearing and the need to address the aviation fuel tax issue, and the Commuter Rail hearing and the need for additional resources in the region to address the goods movement impacts on local infrastructure.

House Transportation and Infrastructure Committee – We met with senior Majority and Minority staff on the House Transportation and Infrastructure Committee multiple times this month to discuss possible TIFIA reform legislation in the Surface Transportation Reauthorization and other possible changes to the discretionary grant programs that are being contemplated. We also discussed the transportation and infrastructure proposal released by former Vice President Joe Biden and asked if the Committee had any plans to include some of those provisions and policies in the next Surface Transportation Reauthorization. Committee staff responded that they had no plans to use the proposal, or any of its provisions at this time. Finally, we discussed the potential issues regarding tolling and interoperability. They are interested in hearing feedback from stakeholders on possible reforms as it relates to tolling interoperability but are not prepared to release any specific draft language at this time.

Senate Banking Committee Staff – We followed-up with Senate Banking majority staff to discuss progress on the Senate Banking Title for the Highway bill. We also followed-up on possible changes to the 13C provision for the next Highway bill.

Department of Transportation – We met with new senior staff at the Department of Transportation after the departure of DAS for Governmental Affairs, Anthony Bedell. We also discussed opportunities for in depth debrief on past BUILD grant application as well as ways to make future application stronger

Surface Transportation Reauthorization

According to conversations with House Transportation and Infrastructure (T&I) Committee staff on the Majority and Minority this month, Chairman DeFazio (D-OR) and Ranking Member Sam Graves (R-MO) have been having private discussions on the overall structure and funding mechanisms of the Surface Transportation Reauthorization. Majority Committee staff have indicated that the bill will likely include a number of climate change provisions and robust transit funding, but no solid proposals are ready for public discussion. Other issues such as new revenue measure to finance the bill and bolster the Highway Trust Fund have also not been decided. The tentative plan is to have a draft bill ready in the first half of 2020. So specific target dates for hearing or markups next year on that draft Highway Bill have been identified yet.

On November 13th, the House T&I Committee held a hearing entitled “*Amtrak Now and Into the Future*”. During the hearing, Chairman Peter DeFazio (D-OR) discussed his plans to eliminate the mandate for Amtrak to break even in the next Surface Transportation Reauthorization. Chairman DeFazio said that he does not believe it is realistic to require Amtrak to be profitable, or break even, given that comparable passenger rail lines in Europe operate on right of ways owned and operated by the government. Chairman DeFazio also praised China for investing \$130 billion annually in their passenger rail system, which served nearly 3.4 billion in 2018. Chairman DeFazio also asked Richard Anderson to work on making Amtrak more reliable, saying that low ridership is a result of train delays and unreliable service.

On November 20th the House T&I Committee held a markup to debate and amend a number of bills. One of the bills approved by the committee was [H.R. 5139](#) – *Stop Sexual Assault and Harassment in Transportation Act*. This bill, sponsored by Chairman DeFazio, aims to address incidents of sexual assault and harassment in multiple modes of transportation, including commuter and intercity passenger rail and transit agencies, to establish formal policies, training, and reporting structures regarding sexual assault and harassment. Other original cosponsors include:

- Julia Brownley, Salud Carbajal, Andre Carson, Adriano Espaillat, Jared Huffman, Eddie Bernice Johnson, Rick Larsen, **Alan Lowenthal**, Stephen Lynch, Tom Malinowski, Sean Patrick Maloney, Grace Napolitano, Eleanor Holmes Norton, Chris Pappas, Donald Payne, Albio Sires, and Dina Titus.

Specifically, the bill would require the creation of dedicated phone and internet-based opportunities for reporting, procedures that would limit or ban future travel by any passenger who causes a sexual assault or harassment incident, and signage advising passengers and employees of the new policies and procedures. We have been told that this bill could be incorporated into the Highway Bill discussions at some point next year.

Other Administrative and Legislative Updates

- On November 19th, Congressman Jimmy Panetta (D-CA) introduced a bill ([H.R. 5163](#)) to provide a new tax credit supporting the purchase of battery-electric and fuel cell electric buses. Specifically, the bill would create a 10% manufacturers' tax credit for the sale of batter-electric or fuel cell electric buses, capped at \$100,000, through 2024. The intent of the bill is that the value of the tax credit would be passed on to the purchaser of the bus (e.g. transit agency) and could be coupled with state incentives like HVIP and AB 784 to further reduce the incremental cost of ZEBs. The tax credit could be claimed by all OEMs. This bill was referred to the House Ways and Means Committee, which is unlikely to hold a markup on the bill until the new calendar year.
- Congressman Lloyd Doggett (D-TX) also introduced a bill on November 19th ([H.R. 5164](#)) titled the EV CHARGE Act of 2019. This bill would modify the alternative fuel refueling property credit by renewing until December 31st, 2024 the 30% tax credit for the cost of any qualified alternative fuel vehicle refueling property placed in service by the taxpayer. The credit would also raise the limitation from \$30,000 to \$100,000 in the case of a property of a character subject to an allowance for depreciation, and from \$1,000 to \$3,333 in any other case.
- This month the House Intelligence Committee held a number of public hearings as part of the House's Impeachment Inquiry for President Trump. Some Congressional staff close to the process believe that House Democrats could hold a vote on the articles of impeachment during the week of December 16th, right before Congress enters winter recess. Even if the vote is not held, there are serious concerns that increased impeachment activities in the new calendar year, amplified by the Presidential elections, could derail any bipartisan policy proposals such as infrastructure and tax legislation. Furthermore, a time-consuming impeachment trial in the Senate would put a number of vulnerable Senators up for reelection in the spotlight at a time when most would prefer to be campaigning in their home states.
- On November 15th, the State of California filed a lawsuit against the Environmental Protection Agency (EPA) for revoking the Clean Air Act waiver. The new lawsuit was filed in the D.C. Circuit Court of Appeals and is the second suit brought by California regarding the Administration's "One National Program" rule. The rule has divided support among automakers. Ford and three other automakers are supporting California, while GM, Fiat Chrysler, and Toyota are supporting the EPA's new position.
- The first week of December, the House Transportation and Infrastructure Committee plans to hold a joint hearing with the Highways & Transit and the Railroads, Pipelines, and Hazardous Materials Subcommittees to examine the current state of freight transportation in the nation. Chairman DeFazio and Majority Members are expected to discuss the effects freight movement on climate change and infrastructure resiliency.